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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/498,950	02/04/2000	Jake B. Carpenter	B0932/7134	9504

7590 11/04/2003

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Boston, MA 02210-2211

EXAMINER
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VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/498,950

Applicant(s)

CARPENTER ET AL.

Examiner

Frank Vanaman

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-104 is/are pending in the application.
- 4a) Of the above claim(s) 30-35 and 51-55 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36-50 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-8, 10-14, 17-20, 22-24, 26-28, 56, 57, 60, 62-65, 67-71, 74-80, 82-90, 93, 94, 96-98, 101, 102, 104 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 9, 15, 16, 21, 25, 29, 58, 59, 61, 66, 72, 73, 81, 91, 92, 95, 99, 100 and 103 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Art Unit: 3618

***Status of Application***

1. Applicant's amendment, filed July 16, 2003, has been entered in the application. Claims 1-104 are pending, claims 30-35 and 51-55 are withdrawn from consideration as being directed to a non-elected invention.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 2, 5-8, 10-14, 17-20, 22, 85, 86, 88-90, 93, 94, 96-98, 101, 102 and 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al. (US 5,918,897, cited previously) in view of Victor (CA 1001676, cited previously). Hansen et al. teach a system for attaching a snowboard boot (2) including a base plate (3, 4), a flexible unitary binding strap (5 and 10) having a boot shaped contour and which includes a slit-shaped pocket (portion 10) which forms with the strap, an internal opening (interior face of the external surface of 10, for example) having a top, bottom and sides, a further strap (8, 9, 11) with one end (e.g., 11) insertable through the pocket, the portion of the strap in the pocket corresponding to the contour of the strap 5, 10), the other end connected to a binding base portion (through 7, 12, 13), still further strap elements (29, 30) connectable to the binding strap (through 7' and 13, figure 4), one end of each of the still further strap elements connected to the base (and thence also to the binding strap), the other ends connected to a pair of buckles (27, 28) which also engage strap 8, 9, 11; the portions 8, 9 of the straps and the engaged portions of the buckles 27, 28 constituting mating features to the breadth claimed; each of the strap elements being mounted so as to move in longitudinal directions with respect to the other strap elements to the extent claimed. The reference of Hansen et al. fails to teach the further strap element connection (e.g., 27, 28, 29, 30) as being adjustable when the boot is in the binding. Victor teaches a binding device wherein a strap (56) provided with a buckle (58) is additionally provided with a secondary adjusting buckle (54). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the further straps and strap connections (e.g., 27-30) taught by Hansen et al.

Art Unit: 3618

each with secondary adjusting elements such as the buckles (54) taught by Victor, which are capable of being tightened or released when a boot is in the binding, for the purpose of allowing a user to set an overall range of binding tension settings, while still allowing the quick attachment and detachment provided by the strap 8, 9, 11.

As regards claim 12, In view of Hansen et al.'s having provided a pair of strap portions located in the pocket portion (10 of strap 5), it would have been obvious to one of ordinary skill in the art at the time of the invention to provide separate pockets for each strap portion for the purpose of preventing snarling or crossing of the two strap portions (e.g., portions 8, 9).

4. Claims 23, 24, 26, 27, 28, 56, 57, 60, 62-65, 67-71, 74-80, 82-84 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al., in view of Victor and Andre (US 2,531,763, cited by applicant). The reference of Hansen et al. as modified by Victor is discussed above and fails to teach the engagement of the strap portions 29, 30, with the buckles 27, 28, modified by the reference to Victor to be adjustable, as including a plurality of apertures in at least the straps and a fastener which may be engaged with the apertures. Andre teaches a mounting system for use with a portion of a boot which requires closure, including a first strap portion (17) with apertures (19) and a mating buckle (18) including a fastener which may removably engage the apertures. It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the connection of strap portions 29, 30 to buckles 27, 28, modified by the reference to Victor to be adjustable, with a buckle having a fastener which releasably engages one of a plurality of apertures positioned at least on the strap portions, for the purpose of allowing each of the straps to be individually adjusted, and for the purpose of allowing the degree of engagement to be easily reproduced (e.g., by engaging the fastener portion of the buckle with the same aperture), facilitating consistent operation of the binding.

Art Unit: 3618

***Allowable Subject Matter***

5. Claims 3, 4, 9, 15, 16, 21, 25, 29, 58, 59, 61, 66, 72, 73, 81, 91, 92, 95, 99, 100 and 103 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 36-50 are allowed.

7. Applicant is reminded that claims 30-36 and 51-55 are withdrawn from consideration as noted above.

***Response to Arguments***

8. Applicant's arguments, filed with the amendment, have been carefully considered. As regards the combination of the reference to Hansen with that of Breuer, the examiner agrees, and those rejections based upon these references have been withdrawn. As regards applicant's further comments directed to the reference of Andre, as much as they may be interpreted as applicable against the newly set forth rejections, the examiner does not agree. Applicant has referred to Hansen et al's specification, describing the predefined closure position as teaching away from the use of a hook arrangement set forth by Andre. On further consideration subsequent to the interview of 2/6/03 and further perusal of the reference to Andre, the examiner notes that the reference to Andre does not provide any evidence that the hook connection is of such a nature that it would necessarily (either explicitly or inherently) release if tension is not maintained on the connection. As such applicant's arguments, in the absence of any supporting evidence, are not persuasive. The arguments of counsel cannot take the place of evidence in the record. In re Schulze, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965).

Art Unit: 3618

**Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 703-308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is 703-308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450,

Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326  
After Final Amendments: 703-872-9327  
Customer Service Communications: 703-872-9325

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**



10/30/03